



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/690,566	10/17/2000	Michael P. Lilly	LLY-004	1577

27557 7590 05/19/2005

BLANK ROME LLP  
600 NEW HAMPSHIRE AVENUE, N.W.  
WASHINGTON, DC 20037

EXAMINER
----------

IRSHADULLAH, M

ART UNIT	PAPER NUMBER
----------	--------------

3623

DATE MAILED: 05/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/690,566

**Applicant(s)**

LILLY ET AL.

**Examiner**

M. Irshadullah

**Art Unit**

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 19-30 and 32-33 is/are rejected.
- 7) ☒ Claim(s) 14 and 31 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This communication is in response to correspondence filed December 20, 2004.

#### ***Summary Of Instant Office Action***

2. Applicant's arguments regarding claims 1-33 rejected under 35 U.S.C. 102, Office Action mailed June 21, 2004 have been fully considered and are responded below.

#### ***Specification***

3. The amendment to specification in the first para on page 2 is objected to because of the following informalities:

In accordance to MPEP Section 201.11 the proper form of claiming priority is as follows:

If applicant desires benefit of a previously filed application under 35 U.S.C. 119(e) or 120, specific reference to the earlier filed application must be made in the instant application. For benefit claims under 35 U.S.C. 120, 121 or 365(c), the reference must include the relationship (i.e., continuation, divisional, or continuation-in-part) of the applications. This should appear as the first sentence(s) of the specification following the title, preferably as a separate paragraph unless it appears in an application data sheet. The status of nonprovisional parent application(s) (whether patented or abandoned) should also be included. If a parent application has become a patent, the expression "now Patent No. \_\_\_\_" should follow the filing date of the

parent application. If a parent application has become abandoned, the expression "now abandoned" should follow the filing date of the parent application.

Appropriate correction is appreciably required.

4. Other Amendments to specification as per Examiner's suggestion are appreciably acknowledged and entered.
5. Amendments to claims 1, 2, 4-19 and 31 have been entered.
6. Pursuant to Applicant's amendment to claim 18, rejection under 35 U.S.C. 112, Second paragraph has been withdrawn.
7. Rejection of claims 1-18 under 35 U.S.C. 101 is maintained in view of the following Case Law:

The recitation "computer-implemented" in claim 1 has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1-33 are rejected under 35 U.S.C. 102(e) as being anticipated by Powell (US Patent 6,195,590 B1).

Powell discloses:

Claim 1. A computer-implemented method for determining customer service impact, comprising:

a) receiving item orders having a requested completion date (Col. 2, lines 17-33, wherein “project manager’s primary computer 20, establishing network of manufacturing activities, assigning time duration estimates, baseline schedule dates comprising start and end or completion dates, lines 16-23”, transferring established data or information to “activity managers’ secondary computers 21, lines 26-27” for performing some functions, such as “calculating delta values” inferring that cited activity managers computer 21 “receiving commands or orders” from the projection manager computer 21, and cited “network of manufacturing activities, assigned time duration estimates, baseline schedule dates etc.” indicating “elements or items” of said order, and “establishing end or completion date of an activity” indicating “manager’s fixing a

Art Unit: 3623

desired or requested end or completion date for the activity” as indicated by “desired completion date” in “primary computer 20 calculating baseline schedule by subtracting duration of the activity from baseline schedule date for the start of the following activity beginning with the desired {as established or fixed by the manager} completion date, col. 4, lines 7-15);

b) scheduling a scheduled completion date for each item order (Col. 2, lines 17-23, wherein “establishing baseline schedule comprising activity start dates and end or completion dates, lines 22-23” clearly pointing to “scheduling completion date” relative to above discussed order elements or items);

c) selecting at least one item order, each item order having a scheduled completion date (Col. 22, lines 62-63, wherein “selection of activity” indicating the availability of a “choosing or selecting” function and a user would use said function for selecting one or more of the above discussed elements or items of the order and as discussed above, one of the item relating to activity end or completion date);

d) comparing the scheduled completion date with the requested completion date for each selected item order (Col. 6, line 63 through col. 7, line 9, wherein “comparing delta values” inferring “comparing baseline scheduled or required {above discussed desired or requested end or completion} dates and actual {actually end or completion} dates” as indicated by “delta vale is the difference between actual {actually end or completion} dates and scheduled or required {requested end or completion} dates, col. 2, line 66 through col. 3, line 3); and

e) deriving a customer service measurement for each selected item order based on said comparing, the customer service measurement comprising a measurement of at least one of time and money (Col. 3, lines 2-13, wherein "estimated delta value, lines 2-3" being "measure of early or lateness" is indeed an indicator or measurement of how a customer is impacted or is a "customer service indicator or measurement", it involving or comprising time or money as indicated by "project manager 21 balancing costs against benefit/penalty of early or late finishing, col. 6, lines 29-31").

Claims 2 and 20. The method of claim 1/19 wherein said deriving comprises:  
deriving a customer service measurement for each item order based on said comparing, the customer service measurement comprising the time difference between the requested completion date and a scheduled completion date (Col. 2, line 66 through col. 3, line 9, wherein "delta value = actual date - required or requested date" or the "difference" of said dates and vice versa as per lines 3-9).

Claims 3 and 21. The method of claim 2/20 wherein the time difference is measured in one or more of years, weeks, days, hours, minutes, and seconds (Col. 2, line 61, wherein "measuring time in working days" indicating reference's capability of determining above discussed difference in any format including the claimed ones).

Claims 4 and 22. The method of claim 1 wherein deriving comprises:  
deriving a customer service measurement for each item order based on said  
comparing, the customer service measurement comprising the value of the item order  
(As discussed above, reference's "delta value" is a customer service indicator or  
measurement and being related to above discussed order items or elements, it is also  
an element or item of the order received by activity manager computer 21 from project  
manager computer 20).

Claims 5 and 23. The method of claim 1/19 wherein deriving comprises:  
deriving a customer service measurement for each item order based on said  
comparing, the customer service measurement comprising the amount of time  
difference between the requested completion date and a scheduled completion date  
multiplied by the value of the item order (Inherent, since for arriving at early or lateness  
delta value {being a difference between above discussed dates} is multiplied by the  
number or value above discussed order elements or items).

Claims 6 and 24. The method of claim 1/19 wherein said deriving comprises:  
deriving a customer service measurement for each item order based on said  
comparing, the customer service measurement comprising the amount of time  
difference between the requested completion date and a scheduled completion date  
multiplied by the value of the item order and multiplied by a predetermined interest rate



(Inherent, since above discussed value is multiplied by the rate of finance or interest to pay for the lender or the customer if he so demanded).

Claims 7 and 25. The method of claim 1/19, further comprising:  
determining an overall customer service measurement based on the customer service measurement for each item order (Estimated or determined delta value discussed in Applicant's element 1e) above, when computed for every customer, it would result into total or overall customer service indicator or measurement and it would relate to above discussed elements or items of the order).

Claims 8 and 26. The method of claim 7/19 further comprising:  
reporting the overall customer service measurement as the overall customer service measurement for that scheduling operation (Col. 5, lines 47-49, wherein a user would use cited "reporting" function for reporting above discussed total or overall customer service indicator or measurement for an "specific" or "that" scheduling action or operation).

Claims 9 and 27. The method of claim 7/19 further comprising:  
displaying the customer service measurement on a calendar showing the total customer service measurement for a predetermined time period (Fig. 2 {20 and 21}, wherein "20" comprising a "display, col. 5, lines 61-62" and "21" comprising "display, col. 5, lines 9-11" and user would use said displays for claimed purpose. Moreover,

Art Unit: 3623

reference employs “calendar date, col. 2, lines 62-65”, a user would use this facility to use the system for calendaring and depicting information in calendar format or on calendar).

Claims 10, 13 and 28. The method of claim 7/11/19, further comprising repeating said receiving, scheduling, selecting, comparing, deriving, and determining for different schedules to determine the customer service impact of schedule changes (Inherent, since recurrence or repeating computation or logic elements or steps is a must in computer arts unless the procedure, process or method has a solo run).

Claims 11 and 29. The method of claim 1/19, further comprising:  
determining an customer service measurement for a first customer based on the customer service measurement for each item order from the first customer (See discussion of Applicant’s claim 1e) above, and a user would use delta value or customer service indicator or measurement for claimed purpose).

Claims 12 and 30. The method of claim 11/19 further comprising the step of:  
displaying the customer service measurement on a calendar showing the total customer service measurement for a predetermined time period (See discussion about “displaying customer service indicator or measurement or delta value” in Applicant’s claim 9, and a user would use it for depicting any thing including the claimed one).

Claims 15 and 32. The method of claim 14/31 wherein said generating a demand comprises:

generating a demand array of unshipped customer line items (Col. 3, lines 54-57, therein a user would use cited “generating” function for creating or generating any thing including a vector or list or array of claimed unshipped demanded elements or items).

Claims 16 and 33. The method of claim 14/31 wherein said generating a supply comprises:

generating a supply array of at least one of inventory work orders and manufactured inventory (Col. 3, lines 54-57, wherein a user would use cited “generating” function for creating or generating a vector or list or array of above discussed supply relating to above discussed inventory and finished or manufactured goods).

Claim 17. The method of claim 1, further comprising:

identifying a subset of work orders having a customer service measurement greater than a predetermined threshold (Col. 5, lines 18-21, wherein a user would use cited “identifying” function for above discussed delta value or customer service indicator or measurement which has an optimal or threshold value as indicated by col. 6, lines 32-42);

performing at least one of a utilization, contention, and material constraint inquiry on the subset of work orders (Col. 5, lines 13-15, wherein “beginning of an activity

constrained by completion of another activity" indicating applying or performing "constraint").

Claim 18. The method of claim 17, further comprising:

identifying as a potential bottleneck a material or resource having the greatest result in the at least one of a utilization, contention, and material constraint inquiry (Col. 5, lines 18-21, wherein a user would use cited "identifying" function for "recognizing or identifying" if an element requisite for an activity has been entered or not or is unavailable" and "not entering or unavailability" of said element required for an activity representing "bottleneck").

Claim 19. A system for determining customer service impact, comprising:

a) a receiver for receiving item orders having a requested completion date (See Applicant's claim 1a) above);

b) a scheduler for scheduling a scheduled completion date for each item order (See Applicant's claim 1b) above);

c) a selector for selecting at least one item order, each item order having a scheduled completion date (See Applicant's claim 1c) above);

d) a comparator for comparing the scheduled completion date with the requested completion date for the selected item orders (See Applicant's claim 1d) above); and

e) a measurement subsystem for deriving a customer service measurement, the customer service measurement comprising at least one of time and money, for each selected item order based on the comparison (See Applicant's claim 1e) above).

***Allowable Subject Matter***

10 Claims 14 and 31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

11. Applicant's arguments filed December 20, 2004 have been fully considered and are responded below.

Applicant argues that:

a) Powell does not teach: "a requested completion date".

In this regard, Applicant is referred to Powell's col. 2, lines 17-33, wherein project manager's "establishing end or completion date of an activity" indicating "manager's fixing a desired or requested end or completion date for the activity" as indicated by "desired completion date" in "primary computer 20 calculating baseline schedule by subtracting duration of the activity from baseline schedule date for the start of the following activity beginning with the desired {as established or fixed by the manager} completion date, col. 4, lines 7-15.

b) Powell does not teach: “computer-implemented comparing the requested completion date to a schedule completion date”.

Relative to this, Applicant is directed to Powell’s col. 7, lines 50-52 and col. 6, line 63 through col. 7, line 9, wherein “communicating to and storing information by computer” indicating reference’s teaching “computer-implemented” processing, and “comparing delta values” inferring “comparing baseline schedule or requirement {above discussed desired or requested end or completion} dates and actual {actually scheduled end or completion} dates” as indicated by “delta vale is the difference between actual {end or completion} dates and scheduled or required {requested end or completion} dates, col. 2, line 66 through col. 3, line 3.

### ***Conclusion***


12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Irshadullah whose telephone number is 703-308-6683. The examiner can normally be reached Monday-Friday from 10:00 a.m. to 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 571-272-6729. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



M. Irshadullah  
May 13, 2005



**TARIQ R. HAFIZ**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 3600**